

# ITEM 9-B

## CITY OF ALAMEDA

### Memorandum

To: Honorable President and  
Members of the Planning Board

From: Andrew Thomas  
Planning Services Manager

Date: December 12, 2011

Re: Housing Element Update Study Session

### EXECUTIVE SUMMARY

In 2009, the City of Alameda submitted a draft Housing Element for review by the State of California Department of Housing and Community Development (HCD).<sup>1</sup> In June 2009, HCD provided the City of Alameda with its review of the draft Element. (See Exhibit A.) Since 2009, competing work priorities and reductions in staff prevented planning staff from devoting the time and resources to prepare the necessary revisions to the Housing Element for Alameda community, Planning Board and HCD consideration.

In June 2011, staff met with HCD staff to discuss the status of the Housing Element and an efficient process for responding to the HCD comments. Based upon the HCD meeting, staff is planning to prepare Housing Element amendments for Planning Board and community review and adoption in 2012. Staff is also proposing a sequence of public meetings before the Planning Board and City Council in 2012 to provide the community with ample time to review and discuss the proposed amendments to the Housing Element prior to adoption.

The December 12, 2011 Planning Board study session is for informational purposes only. This report provides an introduction to the Housing Element and the major policy issues that will need to be addressed by the community to comply with State of California Government Code requirements for Housing Elements. The following attachments are included to help inform the discussion:

- A. The 2009 HCD Letter.
- B. Excerpts from the relevant Government Code Sections referenced in the HCD letter and this report.

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<sup>1</sup> The draft Housing Element is available for public review at <http://www.cityofalamedaca.gov> (Go to "City Hall", then "Key Documents" then "General Plan" then "Housing Element")

- C. Alameda examples of residential densities discussed in the HCD letter and this report.
- D. A recent report on housing from the State of California

## BACKGROUND

Every city and county in California is required by State law to maintain a General Plan (Government Code § 65300 et seq). State law identifies a number of specific elements that must be included in the General Plan and identifies the types of information that must be included in each element.

The General Plan serves as the local “constitution” for all land use and land use-related decisions that may affect the lives of Alameda’s citizens or the citizens of neighboring jurisdictions. The State’s requirements also ensure that each city and county in California address issues that are of State-wide importance in the General Plan.

The State of California legislature has determined that the provision of housing for all segments of California society is a matter of statewide importance, and that city and county zoning provisions play an important role in the State’s ability to provide housing. For this reason, the Government Code requires that Housing Elements include an extensive amount of information about local land use regulations and Housing Elements are regularly updated to address the State’s ongoing housing needs.

A critical component of California’s Housing Element policy is the requirement that each city and county update its Housing Element to accommodate the “Regional Housing Needs Allocation” (RHNA). The RHNA is provided to each region by the State. Each region is then responsible for allocating the region’s housing allocation between the region’s city’s and counties. In the Bay Area, the Association of Bay Area Governments (ABAG) is responsible for distributing the allocation among the Bay Area’s cities and counties. The sub-regional allocation process considers a number of factors, but in the recent cycle (2007-2014), the allocation of the regional housing need considered regional and State-wide efforts to address climate change through “smart growth” development policies that locate new housing in close proximity to job centers and existing transportation facilities to reduce commute distances, congestion, and green house gas emissions. As a result, inner-bay area communities such as San Francisco, Oakland, and Alameda are asked to carry a larger portion of the region’s housing need.

A Housing Element is considered out of compliance with State law if it has not been revised and updated by the statutory deadline, or if its contents do not substantially comply with the statutory requirements. Over the years, California

has steadily increased the penalties for not having a legally compliant Housing Element.

Failure to adopt an amended Housing Element could cause significant problems for Alameda residents and businesses. For example:

Limited access to State Funding Senate Bill 375 linked regional long-range transportation plans and investments to regional and local obligations for cities and counties to zone land for housing. Cities and counties that do not have a certified Housing Element will be increasingly ineligible for state transportation funds. Annually, the City of Alameda currently receives state transportation funds for projects such as the Stargell Extension, the Webster Street improvements, and street resurfacing projects. Noncompliant communities are or will become ineligible for certain state park, planning, and housing grant programs.

Lawsuits Developers and advocates can sue jurisdictions if their Housing Element is not compliant with State Law. Recent Bay Area cities that were successfully sued include Corte Madera, Pittsburgh, Pleasanton, Benicia, Fremont, Rohnert Park, Berkeley, Napa County, and Santa Rosa. If a court of law finds that the Housing Element is not in compliance with state law, there are several potential consequences for the City, including:

1. Loss of local control over development Invalidation of the Housing Element could have significant effects on the City's ability to control local development and pursue economic development initiatives to create jobs and increase revenue to the City. If a court of law determines that the Housing Element is not valid, the City would be without a valid General Plan. If the General Plan is deemed invalid, the Planning Board and the City Council cannot make the required findings that an action or project is consistent with the General Plan. The City must make the consistency finding to adopt or amend an ordinance, to approve a new project or business, to approve a variance or a use permit, to require dedication of lands for parks, to collect impact fees, and to issue a building permit. Furthermore, if a court invalidates the General Plan, the Government Code allows a court to approve housing projects that may not be desirable to the local community
2. Challenges to Public Works Projects Government Code §65402 provides that no public building or structure may be constructed or authorized until the City's Planning Board has reviewed the project for conformity with an adopted General Plan. In the absence of a valid General Plan, the City would not be able to comply with these provisions of the law, thus subjecting proposed public works projects to legal challenge.

3. Fees – If a jurisdiction faces a court action stemming from its lack of compliance and either loses or settles the case, it often must pay substantial attorney fees to the plaintiff's attorneys in addition to the fees paid to its own attorneys. Recently, the City of Pleasanton paid over \$1 million in attorney fees to the plaintiff's attorneys in addition to its own attorney's fees in a failed effort to defend its Element.

## ANALYSIS

On June 15, 2009, HCD provided an eight-page findings letter that includes a list of items (see Exhibit A) that the City would need to address to comply with Housing Element state law.

### Public Participation Process and Schedule:

Responding to HCD comments will require a significant amount of work by a staff/consultant team, the Alameda community, and the Planning Board. The amendments in response to HCD may include a variety of responses. In some cases the response will be a proposed revision to provide additional information about a program or a site. In other cases the response might be proposed changes to the zoning ordinance or housing program. In other cases it will be a proposal to rezone a property from commercial to residential or to increase the residential capacity of a site. In all cases, the Planning Board and the community should carefully review all revisions proposed by the staff/consultant team.

To implement this process, staff is proposing the following sequence of meetings and actions:

1. Planning Board Meeting #1 (March 2012): Public review and discussion of first draft of responses to HCD Letter.
2. Planning Board Meeting #2 (April): Public review and discussion of revised draft responses.
3. Staff submits final draft responses to HCD for review. (April)
4. Planning Board Meeting #3: (July/August or as soon as HCD response received): Public review and discussion of any additional comments or suggestions provided by HCD on final draft responses.
5. Planning Board Meeting #4 (Aug/Sept): Public review of draft Housing Element Amendments, draft AMC Zoning Amendments and environmental review for Planning Board recommendation to City Council.

6. City Council Meeting #1: Public review and Council action on Planning Board's recommended Housing Element Amendments, Zoning Amendments, and environmental review. (Fall 2012)
7. City Council Meeting #2: Second Reading for Zoning Amendments. (Fall 2012)
8. Staff submits Amended Housing Element for Certification to HCD. (Fall 2012)

Major Issues for Consideration at the Public Meetings:

Staff anticipates that the majority of the public discussion about the draft Housing Element amendments will focus on those responses and amendments that pertain to the land in Alameda that the City will identify as suitably zoned to accommodate Alameda's RHNA. The following sections of this report are intended to provide an overview of the relevant government code sections and the City of Alameda's available land and existing zoning designations.

Pursuant to Government Code Section 65583, the Housing Element must include an inventory of land or list of sites that are appropriately zoned to accommodate Alameda's RHNA, provide for a full range of housing types, and provide housing for a full range of household incomes. In other words, the land inventory must demonstrate that the City has enough land to accommodate the RHNA, and the Element must show that the land on the inventory is zoned in a manner that allows the full range of housing types and facilitates and encourages development of affordable housing.

The 2007-2014 RHNA for Alameda requires that the land inventory identifies sites for up to 2,046 units. Of the 2,046 units, 811 of the units are needed for lower income households. "Lower income" households are households that make less than 80% of area wide median income. For a four person household that represents an income of approximately \$64,400. To comply with the Government Code, the land must be zoned and available for residential development during the 2007-2014 period. In 2005, the Legislature amended the Government Code to penalize cities and counties that fail to zone the land on their inventory for residential use during the period. During the prior period (1999-2007), Alameda included Alameda Point on its land inventory but failed to rezone the property for residential use because of delays in Navy conveyance and hazardous material remediation.

To determine the "un-accommodated" RHNA from the prior period, (1999-2007) the staff/consultant team will need to identify the number of building permits issued during the last planning period and identify the number of vacant sites made available to meet the City's previous RHNA allocation during the period in

order to determine the shortfall from the previous round. The shortfall from the previous round must be added to the current RHNA allocation to ascertain the full RHNA obligation for the land inventory. Staff has not done the necessary analysis, but an initial review indicates that the un-accommodated need may be in the range of an additional 100 to 300 units, which could increase the City's RHNA obligation to up to 2,350 units.

Zoning for Lower-Income Households and Multi-family Rental Housing: Pursuant to Government Code section 65583.2 C (3)(A) and (B), the Element must demonstrate that the City has provided land that is zoned with densities that are appropriate to encourage and facilitate development of housing for lower income households, including multifamily rental housing. The HCD letter requests a more thorough analysis of the City's zoning requirements and standards, with a specific focus on whether Alameda's zoning designations "facilitate and encourage" lower income housing and multifamily housing.

In preparation for this discussion, the community should be aware of the following information:

- The City of Alameda does approve multi-family rental housing and affordable housing developments. Recent examples include the Breakers at Bayport (62 units), Shinsei Gardens (39 units), the proposed project on Lincoln Avenue (19 units), and the recently approved 28-unit multifamily rental building and 45 attached town homes approved as part of the Boatworks project.
- Most of Alameda's sites on the land inventory are zoned to allow residential densities up to 21 units per acre. The zoning on all of the sites prohibits multi-family housing. However, the Alameda Municipal Code (AMC) Density Bonus Ordinance allows the residential density to be increased to 29 units per acre and the multifamily prohibition to be waived by the Planning Board.
- Government Code Section 65583.2 (c ) (3)(B) states that if a site is zoned for 30 units per acre it shall be presumed to be appropriately zoned for lower income households by HCD.

#### Introduction to the Alameda Land Inventory

In preparation for the public meetings in 2012, the community should begin to familiarize itself with the land currently available for residential use and the other sites that might be considered for the land inventory.

The following list is for informational and discussion purposes only. Reviewers should also keep the following issues in mind:

- To avoid potential “carry-over” of un-accommodated need into the next cycle, staff is not recommending that Alameda Point or the North Housing site be included in the 2007-2014 inventory. Once those sites are available, they can be used for the next Housing Element cycle. (2014-2021)
- To avoid potential carry-over to the next cycle, staff will recommend that the rezoning of any site on the inventory that is not currently zoned residential occur as soon as possible.
- The following list includes all of the sites that staff is considering for the land inventory to accommodate between 2,046 and 2,350 units. (The exact number will be determined once the “un-accommodated” need is determined.)
- The “Residential Capacity” column includes a potential residential capacity that might be considered to achieve the RHNA obligation. (The numbers in this column add up to 2,286 total units.) It is very important that the City post a realistic “residential capacity” for each site. The residential capacity should represent the number of units that the City is willing to approve on the property. Failure to approve the number of units that the City identifies on a site in its Housing Element has consequences for certification and the next cycle.
- To achieve the “Residential Capacity” on some of the sites on the list, the development plan will require that some or all of the units be provided in a multifamily configuration to enable the number of units to fit on the site.
- Consideration should be given to potential long term economic development impacts of rezoning commercial or industrial land to housing. Once land is designated “residential” it is very difficult to attract/maintain employment generating uses. A well diversified local economy needs to have areas suitably zoned for a range of uses. Balance among these considerations will be important to ensure a jobs/housing balance and a healthy local economy.

### **Land Potentially Available for Land Inventory**

<b>Site Name</b>	<b>Current Zoning</b>	<b>Site Acreage (approx.)</b>	<b>Residential Capacity (estimate for discussion)</b>	<b>Comments</b>
<b>Sites Zoned for Residential Development</b>				
Alameda Landing - Interior Sites	Residential	25	300	Current entitlement includes 300 units
Main Street	Residential	4.75	100	Storage Business
Encinal Terminals	Residential Mixed Use (RMU)	16	200	

Chipman	Residential	7.14	100	Previous entitlement was 75 units
Del Monte	RMU	9.7	200	Adaptive Reuse Required
Penzoil	Residential	4.14	50	
Animal shelter/Corp yard	Residential	2.18	25	City facilities would need to be moved first.
Five A Storage (Clement/Walnut Street)	Residential	5	100	
Boatworks	Residential	7.5	182	Entitlement includes Multifamily Rental Housing
730 Buena Vista	Residential	1.57	20	
Webster Street Misc. Sites	RMU	Scattered Sites	100	Ground floor retail desirable
North Park Street Misc. Sites	RMU		100	Ground floor retail desirable
Lincoln	Residential	½	19	Entitlement is Multifamily Rental Housing
Versailles	Residential	1	10	Tentative Map on file.
1913 Bay Street	Residential	2	30	Storage Site
<b>Sites that are not currently zoned for Residential but that could be Rezoned for Residential</b>				
Alameda Landing Waterfront	Office	20	100	
Shipways at Marina Village	Office	6.4	100	Application for res. rezoning anticipated
Alameda Marina	Manufacturing	3	100	Application for res. rezoning anticipated
Neptune Point	Office/Government	3	40	Application for rezoning on file.
Island High	Manufacturing	1	20	North Park Street Code recommends residential.
2100 Clement/1924 Willow	Manufacturing	3	40	
<b>Projects Completed or Under Construction during 2007-2014</b>				
Shinsei	Residential	2.51	39	Multifamily Rental
Grand Marina	Residential	3	40	15% affordable
Habitat for Humanity	Residential	1.57	8	100% affordable
Bayport	Residential		62	Units constructed during 2007-2014

Islander Hotel	Residential	1	62	Hotel Conversion
<b>Scattered Units</b>				
Amnesty Units			70	
Infill Housing Units	Residential		70	
CDGB Sub Rehab Units	Residential		14	
<b>Potential Total Units</b>			<b>2,311</b>	
<b>RHNA with Estimated Carry Over</b>			<b>2150-2350</b>	

### NEXT STEPS

At the December 12, 2011 Planning Board workshop, the staff/consultant team will be available to answer questions and describe in more detail some of the issues and challenges that the community will face in preparing Housing Element amendments in response to HCD's letter.

The staff/consultant team is also interested in any information or data that would be useful to the Planning Board or the community over the course of 2012 to help inform the community review of the proposed amendments. For example, Exhibit C is attached to this report to provide some visual examples of existing densities in Alameda.

Finally, staff is also requesting that the Planning Board and community review and endorse the public process described in this report. The actual dates may change during the process, and additional meetings may be needed as the process progresses, but it is important that the Planning Board and community review and endorse this major work effort.

### ENVIRONMENTAL REVIEW

Prior to review and adoption of the Housing Element, the Planning Board and the City Council will need to consider the environmental impacts of the proposed Housing Element. As the public process proceeds and the nature and content of the proposed amendments becomes more clear, staff will begin preparation of an environmental document to accompany the proposed Housing Elements revisions and zoning amendments. This environmental document may be an updated Negative Declaration similar to the Negative Declaration adopted in 2003 for the Housing Element, or it may be an Environmental Impact Report.

### RECOMMENDATION

A. Hold a public workshop to discuss the City of Alameda Housing Element.

- B. Review, modify as necessary, and endorse by motion the proposed process and sequence of public meetings described in this report for the completion of the Housing Element.

Respectfully Submitted By:

Andrew Thomas  
Planning Services Manager

Attachments:

1. HCD June 2009 Letter
2. Relevant Government Code Sections
3. Alameda Density Photographs.
4. 2011 State Housing Report